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15 TWITTER, INC.

16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 SAN FRANCISCO DIVISION

19 OMAR ABDULAZIZ,

20 Plaintiff,

21 v.

22 TWITTER, INC.; McKINSEY & CO.,

23 Defendants.

Case No. 3:19-cv-06694-LB

**SUPPLEMENTAL DECLARATION OF
TWITTER EMPLOYEE IN SUPPORT OF
TWITTER, INC.'S MOTION TO
DISMISS PLAINTIFF'S FIRST
AMENDED COMPLAINT**

Date: June 11, 2020
Time: 9:30 a.m.
Dept.: Courtroom B- 15th Floor
Judge: Hon. Laurel Beeler

Date Filed: October 18, 2019

Trial Date: None Set

24
25 REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED
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1 I, [REDACTED], declare as follows:

2 1. I am a [REDACTED] at Twitter, Inc. ("Twitter"). I have been
3 employed with Twitter since March 2010. I submit this declaration in connection with Twitter's
4 Motion to Dismiss Plaintiff's First Amended Complaint. I have personal knowledge of the facts
5 stated in this declaration and, if called as a witness, could and would testify competently as to
6 those facts.

7 2. In October 2011, I was [REDACTED] at Twitter. As part of my job, I am
8 familiar with the process by which individuals signed up for Twitter accounts and accepted
9 Twitter's Terms of Service at that time.

10 3. To sign up for a Twitter account in October 2011, an individual was provided a
11 link to the Terms of Service on the sign-up page and was required to agree to Twitter's Terms of
12 Service to sign up. It was not possible for an individual to create an account without first
13 agreeing to the Terms of Service. This remains the case today. Attached hereto as **Exhibit 1A** is
14 a true and correct copy of an archived screenshot of Twitter's sign-up webpage as it existed in
15 October 2011. The screen shot is available on the Internet Archive, available at
16 <http://web.archive.org/web/20111001213145/https://twitter.com/signup> (downloaded on
17 December 4, 2019).

18 4. As shown in Exhibit 1A, a printable copy of Twitter's Terms of Service was
19 available at a hyperlink located next to the text box on the sign-up page. Attached hereto as
20 **Exhibit 2A** is a true and correct copy of Twitter's Terms of Service, with an effective date of
21 June 1, 2011 to May 16, 2012, available at https://twitter.com/en/tos/previous/version_5
22 (downloaded on December 4, 2019).

23 5. As reflected in Exhibit 2A, Twitter's Terms of Service included a Limitation of
24 Liability provision that reads, in part, "Twitter . . . will not be liable for any direct, indirect,
25 incidental, special, consequential, or punitive damages . . . resulting from . . . unauthorized access,
26 use or alteration of your transmissions or content whether based on warranty, contract, tort
27 (including negligence) or any other legal theory[.]" As shown in the following exhibits, every
28 subsequent version of Twitter's Terms of Service has contained a substantially similar provision.

1 6. As reflected in Exhibit 2A, Twitter's Terms of Service included a change-in-terms
2 provision that reads: "We may revise these Terms from time to time, the most current version will
3 always be at twitter.com/tos. If the revision, in our sole discretion, is material we will notify you
4 via an @Twitter update or e-mail to the email associated with your account. By continuing to
5 access or use the Services after those revisions become effective, you agree to be bound by the
6 revised Terms."

7 7. Attached hereto as **Exhibit 3A** is a true and correct copy of Twitter's Terms of
8 Service, effective May 17, 2012, available at https://twitter.com/en/tos/previous/version_6
9 (downloaded on May 15, 2020).

10 8. Attached hereto as **Exhibit 4A** is a true and correct copy of Twitter's Terms of
11 Service, effective June 25, 2012, available at https://twitter.com/en/tos/previous/version_7
12 (downloaded on May 15, 2020).

13 9. Attached hereto as **Exhibit 5A** is a true and correct copy of Twitter's Terms of
14 Service, effective September 8, 2014, available at https://twitter.com/en/tos/previous/version_8
15 (downloaded on May 15, 2020) .

16 10. Attached hereto as **Exhibit 6A** is a true and correct copy of Twitter's Terms of
17 Service, effective January 27, 2016 available at https://twitter.com/en/tos/previous/version_10
18 (downloaded on May 15, 2020).

19 11. Attached hereto as **Exhibit 7A** is a true and correct copy of Twitter's Terms of
20 Service, effective September 30, 2016, available at
21 https://twitter.com/en/tos/previous/version_11(downloaded on May 15, 2020).

22 12. Attached hereto as **Exhibit 8A** is a true and correct copy of Twitter's Terms of
23 Service, effective October 2, 2017, available at https://twitter.com/en/tos/previous/version_12
24 (downloaded on May 15, 2020).

25 13. Attached hereto as **Exhibit 9A** is a true and correct copy of Twitter's Terms of
26 Service, effective May 25, 2018, available at https://twitter.com/en/tos/previous/version_13
27 (downloaded on May 15, 2020).
28

1 14. Attached hereto as **Exhibit 10A** is a true and correct copy of Twitter's current
2 Terms of Service, effective January 1, 2020, available at <https://twitter.com/en/tos> (downloaded
3 on May 18, 2020).

4 I declare under penalty of perjury under the laws of the State of California that the
5 foregoing is true and correct, and that this declaration was executed in San Francisco, California
6 on May 27, 2020.

